

**10/23/02 Substantive Changes approved by the full Commission**

**2/7/01 Substantive Change approved by the full Commission**

**11/21/00 Nonsubstantive changes approved by Efficiency Committee**

**10/31/00 Nonsubstantive changes approved by Efficiency Committee**

**10/31/00 Adopted by the full Commission**

## **PEAK LOAD REDUCTION PROGRAM**

### **OVERALL PROGRAM GUIDELINES**

#### **1. Background**

During the summer of 2000, California utilities experienced high prices for electricity on the wholesale market and supply problems that resulted in electricity outages in the San Francisco Bay Area. In the San Diego area, electricity customers' rates were no longer affected by the post-restructuring rate freeze. As a result, San Diego ratepayers were confronted with much higher electricity bills than in previous years.

In August 2000, the California Legislature and Governor approved a number of bills to address these electricity system issues. One of the bills, Assembly Bill 970, includes provisions on power plant siting, renewable and distributed generation issues, and reducing peak electricity demand. AB 970 allocates \$50 million to the California Energy Commission to use these funds for a program to reduce peak electricity demand. The AB 970 Peak Load Reduction Program is codified in Public Resources Code Section 25555.

The program goal is to reduce peak electricity demand on the California electricity system by at least 200 Megawatts (mw).

Public Resources Code (PRC) section 25555 provides that the Peak Load Reduction Program shall include, but not be limited to the following:

- a) Incentives for price responsive heating, ventilation, air conditioning and lighting systems, (San Francisco Bay Area, San Diego Region and statewide);
- b) Incentives for cool communities (San Francisco Bay Area, San Diego Region and statewide);
- c) Incentives for energy efficiency improvements for public universities and other state facilities (statewide);
- d) Funding for state building peak reduction measures (statewide);
- e) Incentives for light-emitting diode (LED) traffic signals (statewide);

f) Incentives for water and wastewater treatment pump and related equipment retrofits (statewide); and

g) Renewables (except hydroelectric) both onsite and commercial scale.

The first six categories combine into five Program Elements (item c above, public universities and other state facilities is combined with item d above, state buildings), with specific criteria and requirements for funding for each element. The sixth Program Element is devoted to funding two areas: 1) the general efficiency proposals that are not covered within the first five Program Elements and 2) renewables. In doing so, the Commission is providing an opportunity for individuals and entities to propose innovative projects that do not fall within the five Program Elements, but still meet the statutory criteria.

## 2. Guidelines

The Guidelines are comprised of seven separate guideline documents:

- Overall Program Guidelines

They describe how the Program will operate, and how each of the Program Elements will be administered. These Guidelines include overall information and requirements that apply to the entire Program and provide general procedural direction.

- Program Element Guidelines

The six Program Element Guidelines for each of the individual categories outline eligible applicants and funding, what criteria will be used to determine how much funding an applicant can receive, and specific administrative procedures. The six Program Element Guidelines cover the following subject areas:

- Demand responsive Heating, Ventilation, Air Conditioning (HVAC) and Lighting
- Cool Roofs
- State Facilities/Public Universities
- LED Traffic Signals
- Water/Wastewater Equipment Retrofits
- Innovative Efficiency and Renewables Proposals

The adopted Overall Program Guidelines and Program Element Guidelines are available on the Commission's web site:

<http://www.energy.ca.gov/peakload/documents/index.html>

or by contacting:

California Energy Commission  
Energy Efficiency Division MS-42  
1516 9th Street  
Sacramento, CA 95814  
(916) 654-4147  
pppe@energy.state.ca.us

### 3. Definitions

- a) Applicant – Any individual or entity applying for funds under this Program
- b) Commission or Energy Commission – California Energy Resources Conservation and Development Commission
- c) Committee -- Efficiency Programs Committee of the Energy Resources Conservation and Development Commission or other committee charged with implementing the Peak Load Reduction Program
- d) Funding Award – Award of funds to an applicant under this Program through a contract, grant or inter-agency agreement
- e) Program – Peak Load Reduction Program
- f) Program Element – the individual subject areas designated for funding by AB 970 (i.e. LED traffic signals)
- g) Recipient – Any eligible individual or entity receiving contract, grant, or inter-agency funds under this Program

### 4. Peak Electricity Demand Savings Calculation

Peak electricity demand savings are calculated as the average hourly reduction in demand during a summer afternoon when California system electrical demand is very high. The peak demand period is defined as the hours of 2 p.m. to 6 p.m. on non-holiday weekdays during the months of June through September. This four hour average value will be used as a proxy for demand savings during individual hours of Independent System Operators Alerts and/or high system demand.

Savings will be determined using engineering calculations, measurements, or a combination of both. It is expected that most, if not all, of the projects will be paid incentives based on:

- Pre-installation estimates of savings using engineering calculations and
- Verification inspections of proper installation (i.e. potential to generate savings) for a sample of projects.

For a small number of projects, metering and engineering calculations will be used to assess actual savings during Independent System Operators Alerts or periods of high electrical demand. This post-installation assessment will be used to update the pre-installation estimates for all projects.

The peak load savings formula is:

$$\frac{(\text{System kWh Usage})_{\text{pre-retrofit}} - (\text{System kWh Usage})_{\text{post-retrofit}}}{4}$$

Where:

System kWh Usage equals kWh consumption of affected building(s) or system(s) during the hours of 2pm to 6 p.m. on a non-holiday, summer (June through September) weekday.

To estimate performance when California system electrical demand is very high, four categories of projects are defined:

- For weather dependent projects (e.g., cool roofs), the peak afternoon will be defined as an afternoon when ambient temperatures are equal to the applicable California Energy Commission Climate design temperature during the four hour period between 2pm and 6pm
- For demand responsive systems (e.g., lighting controls, thermostats), the peak afternoon will be defined as an afternoon when the demand for electricity is such that a dispatch signal is sent to the building control system and as a result of that signal, the control system reduces demand to the maximum extent programmed into the control system at time of installation
- For end use or appliance cycling or shedding systems, the peak afternoon will be defined as an afternoon when the temperatures equal the California Energy Commission Climate Zone design temperature during the four hour period between 2pm and 6pm and a signal is sent to the system to reduce demand to the maximum extent.
- For non-weather dependent and non demand responsive systems (e.g., waste water plant motor retrofits and LED traffic lights), the peak electricity demand will be defined as demand on a summer afternoon with typical or average operating conditions.

## 5. Authority

Section 25555 of the Public Resources Code.

## 6. Purpose

The purpose of these Guidelines is to summarize how the Commission intends to implement the Program. The Guidelines provide direction to potential applicants on the types of proposals sought by the Commission for this Program, explain screening and evaluation criteria, outline the award process, and describe the standards to be used in evaluating project completion and payments to recipients.

## 7. Interpretation

Nothing in these Guidelines shall be construed to abridge the powers or authority of the Commission or the Committee.

## 8. California Public Utilities Commission Authority

The Guidelines are in no way intended to direct or presuppose the operational involvement of investor-owned utilities in the Program implementation described herein. Nor do they presuppose funding for these initiatives through utility rates. The California Public Utilities Commission has ongoing proceedings that address ratepayer funding for energy efficiency and other demand-side management programs (including the price-responsive load control and distributed generation initiatives funded via distribution rates per Public Utilities Code Section 399.15(b)), as well as the investor-owned utilities' role in the implementation of these programs.

## 9. Effective Date of Guidelines

The Guidelines shall not be effective until adopted by the Commission at a publicly-noticed meeting.

## 10. Substantive Changes in Guidelines

Substantive changes in these Overall Program Guidelines or the Program Element Guidelines may be made upon the recommendation of the Committee with the approval of the Commission. Substantive changes shall take effect once adopted by the Commission at a publicly noticed meeting. Substantive changes include, but are not limited to the following:

- a) Changes in screening for eligibility
- b) Changes in evaluation or scoring criteria

- c) Changes in minimum or maximum dollar amount or kilowatt reduction required for individual grants, applicants or projects.
- d) Changes in criteria or incentive levels for determining award amount.
- e) Addition of new Program Elements
- f) Reallocation of more than 20% of the funding initially allocated for one Program Element to other Program Element(s)

#### 11. Non-Substantive Changes in Guidelines

Non-substantive changes in these Overall Program Guidelines or the Program Element Guidelines may be made upon the recommendation and approval of the Committee. Non-substantive changes include, but are not limited to the following:

- a) Changes in the requirements for format of any invoicing, reporting or other form, or information requested in the forms
- b) Reallocation of 20% or less of the funding initially allocated for one Program Element to other Program Element(s)

#### 12. Eligibility

In order to be eligible for funding under this Program, projects must meet the minimum criteria listed below. Further criteria for eligible applicants and eligible projects are detailed in the Program Element Guidelines:

- Must reduce California peak electricity demand.  
(In order to ensure that a project reduces peak electricity demand, Program funds must be used to fund incremental or additional reductions in peak electricity demand. If multiple funding sources are involved in financing a project, the applicant must identify all funding for the project so that the Commission can determine if incremental or additional peak electricity demand savings will be achieved. If peak electricity demand savings are being counted by another funding source such as a utility, then the applicant cannot count those savings for the projects proposed under this Program in order to avoid double counting of peak demand savings.)
- After the first summer of operation, the project must continue to reduce peak electricity demand from June 1 – September 30 for a minimum of an additional three years.

- The program includes funding opportunities for renewable, distributed generation. Generating projects using fossil fuels are not eligible.
- Must comply with all applicable environmental laws.
- Must have Isolated and measurable peak electricity demand reduction.

### 13. Types of Funding Available

Funding will be made in the form of grants, contracts, and inter-agency agreements. All awards are subject to the requirements set forth in these Overall Program Guidelines and the specific requirements detailed in the individual Program Element Guidelines.

The Commission encourages the applicant to aggregate individual projects into a combined application wherever possible. For grants, the project must benefit the recipient directly.

### 14. Application Process

#### a) Solicitations

Individuals and entities interested in receiving program funding may apply for funding pursuant to a solicitation document issued by the Commission. A solicitation document will specify the amount of funding available and any project or Program funding caps. The solicitation document will also describe the administrative requirements for submitting an application for funding, the elements to be included and addressed as part of the application, the criteria the Commission will use in evaluating applications, and the timetable for review of applications and awards.

The solicitation document will include a sample grant award agreement or a sample contract that recipients will be expected to execute. The grant award agreement or contract will identify the terms and conditions applicable to an award. These terms and conditions will include provisions dealing with such issues as funding award payments and invoicing, project/program management, progress reports, dispute resolution, award termination, and any provisions required by statute.

Unless indicated otherwise in a solicitation document, applications for funding must include, at a minimum, the following:

- Name, address, and business information of applicant;
- Name, address, and business information of the project/program contact;

- Description of project/program for which funding is sought;
- An explanation of how the project/program complies with the solicitation and eligibility requirements;
- The project/program tasks, activities, and corresponding deliverables (products) and due dates;
- An itemized budget for the project/program that identifies all related costs and expenses;
- A certification by an authorized representative of the applicant that the information included in the application is true and correct to the best of the individual's knowledge.

Applications or bids for contracts will require additional information as required by law and specified in the solicitation document.

#### b) Non-Competitive Contracts and grants; Inter-Agency Agreements

Non-competitive contracts and grants, and inter-agency agreements may be made if the proposal is not in response to a solicitation. Applicants must follow any procedures specified in the Program Element Guideline. Staff will work with the applicant on an individual basis to review and evaluate the proposal. A grant award agreement or contract package is the same as in a solicitation, and will include all applicable terms and conditions, budget, invoice requirements, etc.

### 15. Selection Methods

Each Program Element Guideline will specify the method for selecting applications for funding. The selection methods include the following:

#### a) First-Come, First-Served

Projects that meet specified criteria are funded on a first-come, first-served basis depending on the time their completed application is received, deemed complete, and accepted as eligible. The selection process is as follows:

- The application first will be reviewed for completeness. If the application is not complete, additional information will be requested in writing. If additional information is not received within the time frame specified in the written request, the application will be returned unprocessed. When the application is complete, it will be recorded as "received," and will continue in the review process.

- Complete applications will then be reviewed to determine if they meet eligibility requirements.
- If the subject area includes selection evaluation criteria, eligible applications will next be evaluated and scored using the selection evaluation criteria to determine if they meet the minimum qualifying points, if applicable.
- If the application meets the eligibility criteria and, if applicable, receives the minimum qualifying points, the application will then be recommended for funding on a first-come, first-served basis.

#### b) Competitive Solicitation

Applicants compete based on specific evaluation criteria and are scored and ranked based on those criteria. The selection process is as follows:

- Applicants must submit applications for proposed projects no later than the date specified in the solicitation document.
- Complete applications will be reviewed to determine if they meet eligibility requirements.
- Eligible applications will next be evaluated and scored using the selection evaluation criteria.
- Applications can be reviewed and recommended for funding using several methods, depending on the solicitation, including high score, or most qualified, or low bid.
- The most competitive project applications will then be recommended for funding.

#### c) Non-competitive and Interagency Agreements

Awards may also be made on a non-competitive basis, to individuals or entities for a specific project or task. Proposals for a contract or grant award on a non-competitive basis will be evaluated using the criteria specified in the applicable Program Element Guideline. In addition, a non-competitive award must meet all of the following criteria:

- There is an urgent need for the work to be accomplished with the contract or grant; or the expertise, work, or service is unique;
- The award is in the best interest of the state; and
- The cost to the state is reasonable.

#### 16. Local Agency Resolutions

When the recipient is a county, city, district, or other local public body, the recipient must provide an original signed resolution (or copy with original signed certification), order, motion, or ordinance of the local governing body which by law has authority to enter into the funding award. This document must authorize the recipient to enter into the funding award and designate an authorized representative to execute all necessary agreements to implement and carry out the purposes of the award. The recipient cannot begin Commission-funded work until the resolution, order, motion, or ordinance has been submitted to the Energy Commission and the funding award has been approved by the Committee or Commission.

#### 17. Cancellation of Solicitation

The Committee may cancel a solicitation any time prior to the final date proposals are due. If awards have been made from a solicitation and the solicitation is then cancelled, the unawarded funds shall either be available for other awards from within the same Program Element, or may be reallocated to other Program Element(s) as described below (see "Reallocation of Funds").

#### 18. Confidentiality

Applications and proposals shall not contain confidential material. Any material in an application that is marked confidential automatically will be disregarded and returned to the applicant. The application will be evaluated without the confidential information. All applications submitted to the Commission will be public documents once the project selections are made.

#### 19. Cancellation of Awards

Before signing an award agreement, the recipient may cancel an award for any reason by notifying the Commission in writing. After the award agreement has been executed, the Commission may terminate the award agreement under those circumstances and terms specified in the award agreement.

#### 20. Funding Award Packages

Unless indicated otherwise in the solicitation document, the funding award package will include at a minimum the following:

- a) A grant award agreement, contract, or inter-agency agreement that includes the terms and conditions applicable to the award, and signature blocks for the recipient and Commission;

- b) A detailed description of project or program activities;
- c) A schedule of project or program activities and corresponding deliverables (products) and due dates; and
- d) An itemized budget for the project or program identifying all related costs and expenses.

## 21. Payments and Invoicing

Unless indicated otherwise in the Program Element Guidelines, the solicitation document, or the funding award agreement, funding award payments shall be subject to the following conditions:

- a) Payments will be made on a reimbursement basis, after the recipient submits the appropriate invoice(s) to the Commission. (If an applicant is receiving funds from other funding sources(s), total funds requested by all sources shall not exceed the total cost of the project.)
- b) All invoices must be submitted with a completed payment request form, as specified by the Commission, and accompanied by all backup documentation. The backup documentation should include copies of paid invoices and receipts detailing the specific equipment and purchases, the services produced, and personnel time records where appropriate.
- c) Commission staff must approve all invoices. Such approval is subject to the recipient's acceptable submittal of the required progress reports, other specified products, and the appropriateness of the invoiced expenses under the funding award agreement.

## 22. Progress Reports

All recipients will be required to submit regular progress reports to Commission staff. The reporting timeframe shall be indicated in the Program Element Guideline, the solicitation, and/or the funding award agreement. The progress reports shall contain the following information:

- a) Status of work, including an indication of overall progress compared to the expected schedule and goals;
- b) Any deliverables (products) as identified in the funding award agreement; and
- c) A comparison of program expenses to date to the expected budget.

## 23. Project Extensions

### a) All Projects Except Schools

Projects funded by this Program must be operational by the date specified in the Funding Award Agreement. Equipment must be purchased, installed and able to reduce peak electricity demand by this time. If a project does not meet this deadline, the award will be terminated and the funds reallocated, as specified below ("See Reallocation of Funds"). Weather-related delays in project completion in the "Cool Roofs" program element may be allowed, by the Contract Manager. Details for this exemption are contained in the "Cool Roofs" program guidelines.

If a project or portion of a project is not operational by the completion date specified in the Funding Award Agreement, due to extenuating circumstances outside the control of the recipient, the recipient may make a written request to extend the date of installation and/or operation.

The Committee may extend the date of installation and/or operation at its discretion. An extension will be considered only if it meets all of the following criteria and procedures:

- The applicant must document circumstances beyond its control which prevent the project from being operational by the applicable completion date in the Funding Award Agreement.
- The applicant must show it neither knew nor had reason to know of the circumstances that led to the project delay.
- The applicant must show it has taken all possible actions to mitigate the project delay.
- The applicant must show satisfactory proof that there are no other known obstacles in the way of completing the project.
- The applicant must show it has incurred a legal obligation such as a contract or purchase order in an effort to complete the project as originally planned.
- The requested extension would otherwise comport with all of the eligibility requirements of the Overall Program Guidelines, applicable Program Element Guidelines, and solicitation document, if any.

- If such extension is granted, the amount of the award and/or incentive, as applicable, will be reduced by 10% for the project or portion of the project extended.

b) Schools

In the case of schools, if a project cannot be operational by the applicable completion date in the Funding Award Agreement, the Committee may grant an extension.

- The applicant must show that due to school class schedules, the project could not be completed by the applicable completion date in the Funding Award Agreement.
- In this case, the incentive amount will not be reduced.

24. Changes to Award Scope

Changes to the work statement, changes to specific line items in the budget, or both may be made under certain conditions. First, such changes must not alter the original scope or purpose of the project or program as proposed in the application and as approved by the Committee and/or full Commission. Second, such changes must not appreciably affect the value of the project or program. Unless indicated otherwise in the funding award agreement, all changes are subject to necessary approval by Commission staff. The recipient shall notify Commission staff in writing and in advance of implementing any such changes.

25. Reallocation of Funds

Each Program Element Guideline will indicate a specific amount of funding allocated to that subject area. Funding may be reallocated between the Program Elements as necessary to best achieve peak electricity demand reduction. However, no funding may be reduced from a Program Element while that Program Element is currently holding a solicitation. Funds may be reallocated from a Program Element only after the solicitation has closed and awards have been made, or when the solicitation has been cancelled.

a) Over 20%

Reallocation of over 20% from one Program Element to other Program Element(s) is considered a substantive change, and may be made only by decision of the Commission.

b) 20% or Less

Reallocation of 20% or less from one Program Element to other Program Element(s) is considered a non-substantive change and may be made by decision of the Committee.

Depending on the percentage to be reallocated, the Committee or Commission (as appropriate), may reallocate funds to other Program Element(s) and may increase or decrease funding in the following situations, without limitation:

- If an award is terminated prior to reimbursement of expenses, the unused portion of the award may be disencumbered and the remaining funds reallocated.
- If a solicitation is cancelled and there are funds subject to that solicitation that have not been awarded.
- If legislation makes more funding available for peak demand reduction efforts, that may be applied to projects eligible for funding within this program.

26. Program Evaluation, Project Monitoring, and Verification

The Commission will audit a sample of funding recipients to verify compliance with the Guidelines and solicitation document (if any), and to measure and verify peak electricity demand reductions. In addition, the Commission will monitor the progress of awards and evaluate the effectiveness of the Program.

27. Random Audits, Record Retention and Access to Facilities

Upon written request from the Commission, the recipient shall provide detailed documentation of all expenses, allow the Commission or its agent access to facilities and records, and allow the Commission or its agent to collect data needed to measure and verify electricity peak electricity demand reductions (this may include but is not limited to utility bills, metering data, facility equipment surveys, information on operational practices and site occupancy levels). Further, if requested, the recipient must agree to provide to the Commission or its agent associated data from a period prior to the start of the project as necessary to establish baselines and program impacts. In addition, the recipient must agree to allow the Commission or any other agency of the state, upon written request, to have reasonable access to and the right of inspection of all records that pertain to the project and to the recipients' energy use during the term of the agreement and for a period of three years thereafter. Further, the recipient must agree to incorporate an audit of this project within any scheduled audits, when specifically requested by the state. Recipient must agree to include a similar right to audit in any subcontract or subgrant. The recipient shall retain all project records (including financial records, progress reports, payment requests, and peak electricity demand reduction documentation) for a minimum of three years after the project has been formally concluded, or final payment received, whichever is later, unless otherwise specified in the funding award agreement.

## 28. Reconsideration and Appeal

### a) Committee Reconsideration

Any applicant that applied for but did not receive funding may petition the Committee for reconsideration. The petition for reconsideration shall be in writing and shall be submitted, together with any supporting documentation, to the Committee at the following address within 15 days of the date of the notice of funding denial:

California Energy Commission  
Efficiency Programs Committee  
1516 9th Street, MS-42  
Sacramento, CA 95814-5512

The petition shall specify the basis upon which the appeal is made, including a showing that factors other than those in the Guidelines and any applicable solicitation document were applied in making the award, why the party believes the funding denial is improper given the eligibility criteria for the funding, a description of the supporting documentation filed with the petition, the legal authority or other basis supporting the petitioning party's position, and the remedy sought. Within 30 days of receipt of the petition, the Committee shall announce a scheduled hearing to consider the petition and shall notify the petitioning party of the hearing date and any additional information the petitioning party is directed to submit. This hearing notice shall be given at least 15 days in advance of the Committee hearing date. The petitioning party and Commission staff may attend the Committee hearing to offer pertinent testimony. The Committee shall provide the petitioning party with a written decision on the petition within 30 days of the hearing date.

### b) Commission Appeal

Within 15 days of the date of the written Committee Reconsideration decision, an applicant may appeal to the Commission. The appealing party shall file an appeal indicating why the Committee Reconsideration decision is unacceptable. The appeal must state the basis upon which the appeal is made, and must include a showing that factors other than those in the Guidelines and any applicable solicitation document were applied in making the award. The letter of appeal, supporting documentation, and copy of the written Committee reconsideration decision, shall be sent to the Commission's Public Adviser at the address below:

California Energy Commission  
Public Adviser's Office  
1516 9th Street, MS-12  
Sacramento, CA 95814-5512

Within 15 days of receipt of the appeal, the Public Adviser shall arrange for the appeal to be presented to the Commission at a regularly scheduled Business Meeting, and shall inform the appealing party in writing of the Business Meeting date and the procedures for participating in the Business Meeting. The appealing party shall be responsible for presenting the appeal to the Commission during the Business Meeting. Unless the Commission determines otherwise during the course of the Business Meeting, a determination on the appeal shall be rendered during the Business Meeting.

## 29. Enforcement Action

### a) Recovery of Overpayment

The Committee, with the concurrence of the Commission, may direct the Commission's Office of Chief Counsel to commence formal legal action against any recipient or former recipient to recover any portion of a funding award the Committee determines the recipient or former recipient was not otherwise entitled to receive.

### b) Fraud and Misrepresentation

The Committee may initiate an investigation of any recipient which the Committee has reason to believe may have misstated, falsified, or misrepresented information in applying for a funding award, invoicing for a funding award payment, or in reporting any information as required by the Guidelines. Based on the results of the investigation, the Committee may take any action it deems appropriate, including, but not limited to, cancellation of the funding award, recovery of any overpayment, and with the concurrence of the Commission, recommending the initiation of an Attorney General investigation and prosecution pursuant to Government Code sections 12650, et seq., or other provisions of law.